



ATTORNEY DOCKET NO. 083847-0203

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sylvain CRUCHON-DUPEYRAT et al.
Title: METHODS AND APPARATUS FOR INK DELIVERY TO
NANOLITHOGRAPHIC PROBE SYSTEMS
Appl. No.: 10/705,776
Filing Date: 11/12/2003
Examiner: Unassigned
Art Unit: 2861

Rule 47(a) Submission / 5 Month Petition for Extension of Time

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I. INTRODUCTION

The applicants are filing a *bona fide* Rule 47(a) submission because one of the six joint inventors, Igor Touzov, refuses to join in the application. The applicants are filing a declaration executed by the remaining five inventors: Sylvain Cruchon-Dupeyrat, Michael Nelson, Robert Elghanian, Joseph Fragala, and Banerjee Debyjoti.

11/01/2004 KBETEM1 00000061 10705776

03 FC:1460

130.00 0P

II. PROOF OF REFUSAL; FACTS IN CHRONOLOGICAL ORDER

November 12, 2003

The captioned regular patent application was filed listing six inventors including Dr. Touzov. The application was filed without an executed declaration.

March 29, 2004

The PTO issued a "Notice to File Missing Parts of Nonprovisional Application" requesting the properly signed declaration.

May 27, 2004

Consistent with telephone conversations with Dr. Touzov both before and after filing the patent application, the undersigned sent an email to Dr. Touzov attaching the declaration, requesting that the signed declaration be returned by June 15, 2004 (Exhibit A). The declaration listed Dr. Touzov as a joint inventor, a Russian citizen, and having a post office address of 311 Castle Hayne Drive, Cary, North Carolina, 27519.

June 15, 2004

Because he had not heard back from Dr. Touzov, the undersigned emailed Dr. Touzov again reminding him about signing the declaration (Exhibit B).

June 21, 2004

Dr. Touzov told the undersigned by telephone that he is for now refusing to sign the declaration.

June 28, 2004

Responsive to Dr. Touzov's request, the undersigned sent a letter to Dr. Touzov by federal express including a copy of the patent application (Exhibit C).

July 27, 2004

The undersigned spoke with Dr. Touzov by telephone, and Dr. Touzov acknowledged receipt of the federal express package. However, he said that he did not open it and continued to refuse to cooperate in signing the declaration.

September 27, 2004

The undersigned sent an email to Dr. Touzov to confirm that he refuses to sign the declaration (Exhibit D).

As of the date of this Rule 47 submission, Dr. Touzov continues to refuse to sign.

III. STATEMENT OF LAST KNOWN ADDRESS OF NONSIGNING INVENTOR

Igor Touzov
311 Castle Hayne Drive,
Cary, North Carolina, 27519

IV. PETITION FOR FIVE MONTH EXTENSION OF TIME

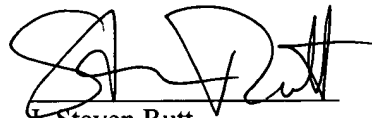
The Commissioner is hereby authorized to charge a five month extension of time fee and any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or any other relevant rule, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

October 29, 2004

Date

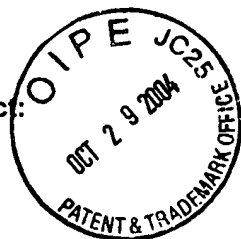
FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5569
Facsimile: (202) 672-5399



J. Steven Rutt
Attorney for Applicant
Registration No. 40,153

Rutt, J. Steven

From: Rutt, J. Steven
Sent: Thursday, May 27, 2004 9:18 PM
To: 'igor@touzov.com'
Cc: Pencofski, Sharyn M.; Wathen, Stacy M.; Percy V. Crocker, Jr.; Denise Damen
Subject: FW: 083847-0203 - Declaration and Power of Attorney and Assignment



Assignment
(3) DOC (55 KB)



Declaration and
Power of Attor...

U.S. Patent Application No. 10/705,776
Filing Date: 11/12/2003
Title: METHODS AND APPARATUS FOR INK DELIVERY TO
NANOLITHOGRAPHIC PROBE SYSTEMS
Inventor(s): Sylvain CRUCHON-DUPEYRAT et al.
Our Ref.: 083847-0203

Dear Igor:

Attached are the Declaration and Power of Attorney and Assignment regarding the above subject matter. Please sign the attached documents and return them to us before June 15, 2004, so we may file them with the missing parts.

Steve Rutt

J. Steven Rutt, Esq., Ph.D.
Foley & Lardner LLP
3000 K Street, N.W.
Washington, DC 20007
phone (202) 672-5351
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IMPORTANT NOTICE: The preceding message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error. Then destroy it. Thank you.



Atty. Dkt. No. 083847-0203
Application No. 10/705,776

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**METHODS AND APPARATUS FOR INK DELIVERY TO NANOLITHOGRAPHIC
PROBE SYSTEMS**

(Attorney Docket No. 083847-0203)

the specification of which (check one)

___ is attached hereto.

X was filed on 11/12/2003 as United States Application Number or
PCT International Application Number 10/705,776 and was
amended on ____ (if applicable).

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached?

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date
60/425,252	11/12/2002
60/508,286	10/06/2003

I HEREBY CLAIM the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the

duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number

I HEREBY APPOINT the registered attorneys and agents at Customer Number 23533

Customer Number: 23533

to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith.

I request that all correspondence be directed to:

Stephen B. Maebius
FOLEY & LARDNER LLP
Customer Number: 23533

Telephone: (202) 672-5569
Facsimile: (202) 672-5399

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Name of first inventor	Sylvain Cruchon-Dupeyrat
Residence	
Citizenship	French
Post Office Address	605 West Madison #2913 Chicago, IL 60661
Inventor's signature	
Date	
Name of second inventor	Michael Nelson
Residence	
Citizenship	US
Post Office Address	1309 Annie Lane Libertyville, IL 60048
Inventor's signature	
Date	
Name of third inventor	Robert Elghanian
Residence	
Citizenship	US
Post Office Address	541 Lavergne Avenue Wilmette, IL 60091
Inventor's signature	
Date	
Name of fourth inventor	Joseph S. Fragala
Residence	
Citizenship	US
Post Office Address	3067 Bates Court San Jose , CA 95148
Inventor's signature	
Date	

Name of fifth inventor	Igor Touzov
Residence	
Citizenship	Russian
Post Office Address	311 Castle Hayne Drive Cary, NC 27519
Inventor's signature	
Date	
Name of sixth inventor	Debjyoti Banerjee
Residence	
Citizenship	Indian
Post Office Address	3427 Hogan Terrace Fremont, CA 94555
Inventor's signature	
Date	

ASSIGNMENT AND AGREEMENT

WHEREAS, SYLVAIN CRUCHON-DUPEYRAT of 605 West Madison #2913, Chicago, IL 60661, MICHAEL NELSON of 1309 Annie Lane, Libertyville, IL 60048, ROBERT ELGHANIAN of 541 Lavergne Avenue, Wilmette, IL 60091, JOSEPH S. FRAGALA of 3067 Bates Court, San Jose, CA 95148, IGOR TOUZOV of 311 Castle Hayne Drive, Cary, NC 27519 and DEBJYOTI BANERJEE of 3427 Hogan Terrace, Fremont, CA 94555 (hereinafter referred to as "ASSIGNOR") have invented a certain invention entitled **METHODS AND APPARATUS FOR INK DELIVERY TO NANOLITHOGRAPHIC PROBE SYSTEMS** (Atty. Dkt. No. 083847-0203) for which an application for United States Letters Patent was filed on November 12, 2003 as Application No. 10/705,776 and

WHEREAS, NANOINK, Inc., a corporation duly organized and existing under the laws of the State of Illinois, and having its principal place of business at 1335 West Randolph Street, Chicago, Illinois 60607 (hereinafter referred to as "ASSIGNEE") is desirous of acquiring the entire interest therein;

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ASSIGNOR has sold, assigned, and transferred, and by these presents hereby sells, assigns, and transfers, unto ASSIGNEE, its successors and assigns, the full and exclusive right, title, and interest in and to (a) the above-identified invention or inventions and all improvements and modifications thereof, (b) the above-identified application and all other applications for Letters Patent of the United States and countries foreign thereto for the above-identified invention or inventions and all improvements and modifications thereof, including priority documents **U.S. Provisional Application Nos. 60/425,252 filed November 12, 2002 and 60/508,286 filed October 6, 2003** (c) all Letters Patent which may issue from said applications in the United States and countries foreign thereto, (d) all divisions, continuations, reissues, and extensions of said applications and Letters Patent, and (e) the right to claim for any of said applications the full benefits and priority rights under the International Convention and any other international agreement to which the United States adheres; such right, title, and interest to be held and enjoyed by ASSIGNEE, its successors and assigns, to the full end of the term or terms for which any and all such Letters Patent may be granted as fully and entirely as would have been held and enjoyed by ASSIGNOR had this Assignment not been made.

ASSIGNOR HEREBY AUTHORIZES AND REQUESTS the Commissioner of Patents and Trademarks to issue said Letters Patent to ASSIGNEE as assignee of the entire interest, for the sole use and benefit of ASSIGNEE, its successors and assigns.

ASSIGNOR HEREBY AGREES (a) to communicate to ASSIGNEE, its successors and assigns, or their representatives or agents, all facts and information known or available to ASSIGNOR respecting said invention or inventions, improvements, and modifications including evidence for interference, reexamination, reissue, opposition, revocation, extension, or infringement purposes or other legal, judicial, or administrative proceedings, whenever requested by ASSIGNEE; (b) to testify in person or by affidavit as required by ASSIGNEE, its successors and assigns, in any such proceeding in the United States or a country foreign thereto; (c) to execute and deliver, upon request by ASSIGNEE, all lawful papers including, but not limited to, original, divisional, continuation, and reissue applications, renewals,

assignments, powers of attorney, oaths, affidavits, declarations, depositions; and (d) to provide all reasonable assistance to ASSIGNEE, its successors and assigns, in obtaining and enforcing proper title in and protection for said invention or inventions, improvements, and modifications under the intellectual property laws of the United States and countries foreign thereto.

ASSIGNOR HEREBY REPRESENTS AND WARRANTS that ASSIGNOR has the full and unencumbered right to sell, assign, and transfer the interests sold, assigned, and transferred herein, and that ASSIGNOR has not executed and will not execute any document or instrument in conflict herewith.

ASSIGNOR HEREBY GRANTS to the law firm of **Foley & Lardner LLP** the power and authority to insert in this Assignment any further identification which may be necessary or desirable to comply with the rules of the U.S. Patent and Trademark Office for recordation of this Assignment.

ASSIGNOR UNDERSTANDS AND AGREES that the attorneys and agents of the law firm of **Foley & Lardner LLP** do not personally represent ASSIGNOR or ASSIGNOR's legal interests, but instead represent the interests of ASSIGNEE; since said attorneys and agents cannot provide legal advice to ASSIGNOR with respect to this Assignment, ASSIGNOR acknowledges its right to seek its own independent legal counsel.

Executed this ____ day of _____, 20__.

SYLVAIN CRUCHON-DUPEYRAT

State of _____)
)ss.
County of _____)

On this ____ day of _____, 20__, before me, a notary public in and for said county, appeared SYLVAIN CRUCHON-DUPEYRAT, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: _____

(Seal)

Executed this ____ day of _____, 20__.

MICHAEL NELSON

State of _____)
)ss.
County of _____)

On this ____ day of _____, 20__, before me, a notary public in and for said county, appeared MICHAEL NELSON, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: _____

(Seal)

Executed this ____ day of _____, 20__.

ROBERT ELGHANIAN

State of _____)
County of _____)ss.

On this ____ day of _____, 20__, before me, a notary public in and for said county, appeared ROBERT ELGHANIAN, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: _____

(Seal)

Executed this ____ day of _____, 20__.

JOSEPH S. FRAGALA

State of _____)
County of _____)ss.

On this ____ day of _____, 20__, before me, a notary public in and for said county, appeared JOSEPH S. FRAGALA, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: _____

(Seal)

Executed this _____ day of _____, 20____.

State of _____)
)ss.
County of _____)

IGOR TOUZOV

On this _____ day of _____, 20____, before me, a notary public in and for said county, appeared IGOR TOUZOV, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: _____

(Seal)

Executed this _____ day of _____, 20____.

State of _____)
)ss.
County of _____)

DEBJYOTI BANERJEE

On this _____ day of _____, 20____, before me, a notary public in and for said county, appeared DEBJYOTI BANERJEE, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Notary Public

My Commission Expires: _____

(Seal)

Rutt, J. Steven

From: Rutt, J. Steven
Sent: Tuesday, June 15, 2004 3:28 PM
To: 'igor@touzov.com'
Cc: Wathen, Stacy M.; 'Denise Damen'
Subject: RE: 083847-0203 - Declaration and Power of Attorney and Assignment

Hi Igor - We are following up on the below. We should receive these back in the next week or so if possible. Please call if any questions.

Thanks.

Steve

J. Steven Rutt, Esq., Ph.D.

Foley & Lardner

3000 K Street, N.W.

Washington, DC 20007

DC office phone (202) 672-5351

cell phone (703) 786-2280

home office phone (703) 426-1624

fax (202) 672-5399

email: srutt@foley.com

-----Original Message-----

From: Rutt, J. Steven
Sent: Thursday, May 27, 2004 9:18 PM
To: 'igor@touzov.com'
Cc: Pencofski, Sharyn M.; Wathen, Stacy M.; Percy V. Crocker, Jr.; Denise Damen
Subject: FW: 083847-0203 - Declaration and Power of Attorney and Assignment

<< File: Assignment (3).DOC >> << File: Declaration and Power of Attoreny (3).DOC >>

U.S. Patent Application No. 10/705,776

Filing Date: 11/12/2003

Title: METHODS AND APPARATUS FOR INK DELIVERY TO

NANOLITHOGRAPHIC PROBE SYSTEMS

Inventor(s): Sylvain CRUCHON-DUPEYRAT et al.

Our Ref.: 083847-0203

Dear Igor:

Attached are the Declaration and Power of Attorney and Assignment regarding the above subject matter. Please sign the attached documents and return them to us before June 15, 2004, so we may file them with the missing parts.

Steve Rutt

J. Steven Rutt, Esq., Ph.D.

Foley & Lardner LLP
3000 K Street, N.W.
Washington, DC 20007
phone (202) 672-5351
fax (202) 672-5399
email: srutt@foleylaw.com

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*faxd. copy of 101 cc: to
Cedric w/ this ltr.*
FOLEY & LARDNER LLP
ATTORNEYS AT LAW

WASHINGTON HARBOUR
3000 K STREET, N.W., SUITE 500
WASHINGTON, D.C. 20007-5143
202.672.5300 TEL
312.832.4700 FAX
www.foley.com

June 28, 2004

VIA FEDEX

WRITER'S DIRECT LINE
202.672.5351
srutt@foley.com EMAIL

CLIENT/MATTER NUMBER
083847-0203

Igor V. Touzov
311 Castle Hayne Drive
Cary, North Carolina 27519

Re: Declaration/Assignment Documents for NanoInk patent
filing on Ink Delivery (083847-0203)

Dear Igor:

Thank you for your email dated June 23, 2004. Van Crocker has asked that we send you a full copy of both the original ink delivery provisional patent application (60/425,252 filed November 12, 2002) and the regular patent application (10/705,776 filed November 12, 2003).

Both the assignment and declaration/power of attorney provide standard clarification about Foley & Lardner's representation in the patent application: Foley represents the interests of NanoInk the company rather than any of the individual inventors.

BRUSSELS
CHICAGO
DETROIT
JACKSONVILLE

LOS ANGELES
MADISON
MILWAUKEE

ORLANDO
SACRAMENTO
SAN DIEGO
SAN DIEGO/DEL MAR

SAN FRANCISCO
SILICON VALLEY
TALLAHASSEE

TAMPA
TOKYO
WASHINGTON, D.C.
WEST PALM BEACH

002.1221442.1

June 28, 2004

Page 2

Please call me if you have any additional questions or if you still do not want to sign the assignment and declaration/power of attorney. We would like to resolve this in the next several business days to avoid extension fees.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Steven Rutt". The signature is stylized with a large, looped "J" and a cursive "Rutt".

J. Steven Rutt

Enclosures

cc: Stephen B. Maebius (w/out enclosures)
✓an Crocker (by facsimile, w/out enclosures)

Rutt, J. Steven

From: Rutt, J. Steven
Sent: Monday, September 27, 2004 4:31 PM
To: Igor V. Touzov
Cc: Maebius, Stephen B.; 'Percy V. Crocker, Jr.'
Subject: Nanolnk patent application on Ink Delivery, our ref. no. 083847-0203

Importance: High
Sensitivity: Confidential



To: Igor Touzov
US Patent Application: "Methods and Apparatus for Ink Delivery to Nanolithographic Probe Systems"
Application No.: 10/705,776
Filed: November 12, 2003 to Cruchon-Dupeyrat et al.
Assignee: Nanolnk, Inc.
Attorney Reference No.: 083847-0203

Confidential

Dear Igor:

As you know, we represent Nanolnk. Nanolnk desires to reach an amicable understanding with you about this patent application. Nanolnk, however, now provides further notice to you that it intends to proceed with its patent prosecution with or without your cooperation under the PTO's Rule 47 and other applicable rules.

Therefore, this confirms our understanding that you have refused in the past, and presently still refuse, to sign the patent declaration and thereby join the patent application (10/705776 filed November 12, 2003, assigned to Nanolnk).

This also confirms our understanding that you have refused in the past, and presently still refuse, to sign the assignment to Nanolnk, Inc. for this same patent application.

In recent months, we have spoken with you about this matter by telephone. We have also conversed about this matter with you by email. We have even sent you a letter dated June 28, 2004 by Federal Express, but you have since conveyed to us by telephone that you have not even opened it. We have not heard back from you any communication that provides any credible indication that you are NOT refusing to join in the application. As a result, our clear understand now is that you do, indeed, refuse to join in the application.

If our understanding is incorrect, please contact me immediately by telephone or email. The matter is urgent. Specifically, we need to hear from you today. My full contact information is below. If you would like to communicate by fax, please provide us with your fax number. If you cannot communicate yet today, please contact me tomorrow. If you need any further documents from us, please let us know. Our understanding is that we have sent you all of the declaration and assignment documents you need to comply with your obligations under your agreement with Nanolnk.

We look forward to hearing from you and repeat that an amicable resolution is desired by Nanolnk. If there is any misunderstanding about your intention, please contact us. Otherwise, we can only conclude that you intend to refuse - and in fact do refuse - to sign the patent declaration and assignment.

Steven Rutt

J. Steven Rutt, Esq., Ph.D.
Foley & Lardner
3000 K Street, N.W.
Washington, DC 20007